



**SUNY/CID
Legislative Strengthening
Program/Malawi**



**QUARTERLY REPORT, VOL.1/1:
QUARTER ENDED JUNE 30, 2006**

OVERVIEW

This first Quarterly Report of the Malawi National Assembly Legislative Strengthening Program focuses on program roll out and mobilization, the legislative context and program activities. It covers the four-month period ended 30th June, 2006 (and not the customary three) in order to bring it in line with the USAID quarters thereafter.

PROGRAM ROLL OUT

Program roll out has, not wholly unexpectedly, been a little sluggish. In Malawi, as elsewhere, achieving Parliamentary buy-in in to a legislative strengthening project can be challenging. At the same time, achieving such buy-in can provide SUNY and USAID the consistent ability to implement activities and make progress toward program objectives.

The overall issue has been (re)introducing the project to the leadership in Parliament. Over the past two years, the NA has been revitalizing its development plan. One of the champions during this phase was former Speaker Rodwell Munyenembe. Sadly, he died during the second half of last year. Within months of the former Speaker's death, the then Clerk of Parliament – Roosevelt Gondwe who had also been a keen participant in the planning process, left his position to join the diplomatic corps.

Rather fortuitously, the implementation process for parliamentary development is now being carried forward under an equally enthusiastic and foresighted Speaker elected in 2005 – Hon. L. J. Chimango M. P. and a principled newly-appointed Clerk of Parliament – Mrs. Matilda Katopola. For the project to succeed, it was necessary to secure the buy-in of the two critical players. To ensure this support, but also so that we could obtain indication of NA's new priorities, the Project Office engaged the NA in a process of consultations. This has helped as the Project is now confident that the activities to be implemented under the Project remain relevant.

PROGRAM MOBILIZATION

The contract between USAID and The State University of New York (SUNY) was signed in March, 2006. Under this contract, SUNY has been engaged to strengthen the National Assembly (NA) Committee Department so that the NA is able to effectively carry out its Constitutional mandate of oversight. SUNY mobilised the Chief of Party and the Senior Legal Adviser on 27th March, 2006. SUNY further mobilized its Program Manager, Senior Technical Advisors and expert consultants to ensure the professional and on-time development and delivery of crucial project deliverables, which were due within the following timeframes:

- Implementation Plan within 30days;
- Annual Work Plan within 45 days; and
- Performance Monitoring Plan within 45 days.

Annual Communications Plan

It had initially been made a requirement that the Contractor should draw up an Annual Communication Plan within 60 days following the recruitment of the Chief of Party. It was later established that this would no longer be required. An appropriate request to the Contracts Officer to make the administrative

change necessary to the Task Order (to remove the reference to a communication plan on page 10-24 of the Task Order) has been made.

Change in the deadlines for the submission Deliverables

The Project start-up coincided with a sitting of Parliament. This meant that critical consultations with the Speaker and NA Management could not take place as in a timely fashion. As may be expected, this had implications on the finalization and approval of the Implementation Plan. Appreciating the environment, USAID agreed to the change of the deadlines for submission of the various deliverables.

	<u>Old</u>	<u>New</u>
Initial Implementation Plan	April 25	May 22
Annual Work Plan	May 10	June 6
Performance Monitoring & Evaluation Plan	May 10	June 6

The Implementation Plan, Annual Work Plan and the Performance Monitoring and Evaluation Plan have been submitted to and approved by the project CTO.

1. MCC Offsite Conference

An MCC offsite team building and coordination meeting took place at Club Makokola in Mangochi from 18th to 21st April. SUNY participated at this conference alongside other major MCC stakeholders. Representing SUNY were the CoP, DCoP and a visiting Home Office senior official – John Johnson. A lot was covered during the period of the conference including the need for the various implementing partners to work in unison for maximum results – the left hand to know what the right hand is doing. Above all the opportunity did avail itself for the various partners to make each others acquaintances.

2. Project Offices

We moved into our offices (Development House, former World Bank offices) on May 15. The landlord, MPICO, required to do some clean up work – replacing old carpets with new ones, but we decided to take occupation so that this would put pressure on the Landlord to speed up the work. In addition, it did help to focus our attention on the Project start-up as the support staff who we had recruited could officially start work. With this, we were able to order and pay for office telephone lines, furniture and equipment, etc.

3. Changes at USAID/Malawi

- Richard Kimball, who was Private Sector Specialist, was promoted to the position of Deputy Chief of Mission.
- Anna Sparks was appointed MCC Project Coordinator. Martha Myers remains the MCC Team Leader and CTO.

NATIONAL ASSEMBLY CONTEXT

1. Changes at the NA

At the start of the Project, the Project Coordinator within the NA was Henry Chingaipe. He was however replaced as the contact person by Jeffrey Mwenyeheli after a few weeks into the Project.

2. Cabinet Reshuffle

During the quarter, the President reshuffled his Cabinet adding new ministers. Notably some of these were from amongst opposition Members of the Parliament. This has turned out to be a source of friction. The opposition believe that this should only have happened after consulting the leadership in the concerned parties. Only one of the three dropped was an MP.

3. Sitzings of Parliament

- ***Sitting Calendar***

The NA has no definitive sitting calendar. The sittings are currently *ad hoc* and convened by the Speaker in consultation with the President. The need to consult the President has been a cause of disagreement with the NA leadership arguing that this makes the NA subservient to the Executive Branch of Government. The Executive can impinge the ability of the NA to sit by not providing the funding required for it to sit. Currently, the only sitting, which is predictable, is the Budget session which runs from May to July during which the budget is tabled for debate. During the quarter on which we report, the NA has met twice: in April and again in June. The latter sitting has expectedly spilled into the second quarter.

One of the objectives of the Project will be to work with all stakeholders so as to identify modalities for the NA to determine its own sitting calendar.

- ***MCC-Focus Legislation – Anti-Money Laundering Bill***

An amended Anti Money Laundering and Terrorism Financing Bill came back to the House. Members have asked for time to study the Bill in order to establish which of the changes proposed by the Legal Affairs Committee had been incorporated. It is unlikely that this Bill will be passed during the current sitting.

- ***2006/2006 Budget***

The Minister of Finance has already presented the July, 2006/June, 2007 Budget to the NA. This is being debated. The resource envelop for 2006/2007 fiscal year is projected at MK134.704 billion with projected expenditure of MK 138.705 billion thus reflecting a deficit of MK4.00 billion. The NA's projected budget for the 2006/2007 fiscal year is MK1.4 billion and this translates to 1.10 % of the total budgeted expenditure. There are positive developments in the NA's budget, - 53% is developmental, and the inclusion of four, five-week meetings of Parliament is indicative of the effort to gradually move towards the development and establishment of a sitting calendar. Of course, the proof of the pudding is the disbursement of the actual funding for these meetings.

- ***Budget & Finance Committee***

In this session, of interest has been the leadership change in the Budget and Finance Committee where the former chairperson – previously an opposition MP - has been appointed Deputy Minister of Finance. Replacing him is the former Minister of Finance during the Muluzi era and now Shadow Minister of Finance in UDF. It will be interesting to see the extent to which the exchange of roles by the two will influence the outputs of the Budget and Finance committee.

- ***House confirms a new IG***

Both the Opposition and the Government side of the NA unanimously confirmed Oliver Kumbambe as new Inspector General of Police. This filling of this position was subject of heated debate a few months ago when the Opposition blocked the confirmation of the first lady Inspector General, Mary Nangwale.

4. AFORD President dies

Hon. Chakufwa Chihana, President of AFORD, who was one of his Party's two MPs in the House passed away in a South African Hospital of a brain tumor. He was accorded a State funeral.

5. Vice President's Case

The Government recently announced that the Vice President – Dr Cassim Chilumpha – had constructively resigned his position because he had absented himself from many Cabinet meetings. The Vice President has sought relief from the Courts, asking the courts for judicial review of the President's decision. Given that the Vice President's position is an elected position, one of the questions before the Courts is whether the President can unilaterally declare his position vacant under the Republican Constitution. Another aspect of the legal tussle is whether the rules of natural justice

were observed. The Constitutional Court has ruled that the matter should firstly go for a pre-trial to resolve a number of preliminary issues.

Part of the equation is that a few months after inauguration, President Mutharika resigned from the UDF which is the party that sponsored him and formed his own party. The Vice President on the other hand, who was elected on the same ticket as the President, has remained in the UDF. Thus, we have a scenario where the president and the vice president belong to two different parties – one in government and the other in opposition. The legal tussle should be seen against this background.

6. Crossing the Floor

Section 65 of the Republican Constitution renders a seat vacant when a Member decides to join a party which is represented in Parliament. This section has been subject of numerous legal actions. The President, under referral powers, has asked the Constitutional Court to issue an opinion as to what the provision means. However, before the Court could decide on the matter, the Speaker and the NA asked the Court that it be included as a party to the proceedings so that it could be heard on the matter subject of the referral. In its ruling, the Court decided that the Speaker and the NA itself had no right to become parties to the proceedings although they court in its discretion could call upon them to voice their views. Both the Speaker and the NA were dissatisfied with that ruling and consequently appealed to the Supreme Court.

The Supreme Court has decided that a Presidential referral is not a suit or an action and, therefore, there are no parties. “It follows that neither the Speaker nor the NA can lawfully demand to become a party to a Presidential referral. The proper procedure is that all the necessary stakeholders and interested persons or bodies are invited to make submissions or representations, during the hearing of a Presidential referral. That is necessary in order to enable the Court, hearing the matter, to make an informed decision, after taking into account a wide spectrum of divergent views bearing on the matter under consideration.”

Following this decision, the Supreme Court has referred the matter back to the High Court now to hear the substantive referral matter and thereafter make a determination as to the meaning of Section 65 of the Republican Constitution.

PROGRAM ACTIVITIES

1. Continuing Consultations with the NA

Consultations with the NA continue to take place to ensure that all the activities that the Project implements are relevant and of the highest priority to the NA. At a recent meeting with the Clerk, concern was expressed over the inadequacy of NA office space. Currently the NA is accommodated in very overcrowded offices in Chief Mbwelwa House. These are rented offices following the decision of the Government to move the NA away from the New State House. The House continues to meet at the New State House. However, all logistical support is provided from Chief Mbwelwa House.

As a result of lack of adequate space, the new additional staff envisaged to be supported by the Project as Committee Clerks in addition to the University Interns will have no offices to operate from. This is a serious handicap and needed to be addressed in order to maximise the benefits of the Project. On its part, although it has limited resources, the NA is nonetheless prepared to reallocate some resources to buy furniture for the new staff and fund the cost of the move to any new offices. However, it would look to the Project to fund the cost of the additional offices and some pieces of equipment such as computers, printers, and photocopiers. The NA realises that to make this possible, it may be necessary to adjust the original set of priorities.

The NA singled out the following activities as those that they may have to forego in order to secure the additional office space:

- Revision of the Handbook;
- Expert Resources Handbook;
- GWAN – the Government-Wide Area Network;
- Rationalise the delegations to other countries by reducing the proposed delegations by say, half and requiring those making the trips to ensure that they share their experiences with those who will not make the trips;
- Only ask for one Reform proponent from either Uganda or Kenya and not both of them – preference was Uganda; and
- Rationalise the number of overseas consultants particularly from subcontractors.

USAID indicated that it was impressed with the pragmatic approach taken by the NA and would thus look at the request favorably. However, specific approval was necessary from the authorities within USAID Malawi and elsewhere. This approval was estimated to take about 4-6 weeks. The MCC Team Leader would recommend that USAID fund the additional space, some computers, heavy-duty printers, and heavy-duty copiers.

SUNY home office is prepared to submit to USAID Malawi a budget modification proposal to support the desire of the NA assembly to secure additional office space. Given cost-savings that may have been realized during the first four months of the project, and given the possibility that USAID Malawi can raise the contract ceiling price, it is unlikely that all or even most of the above-noted lower-priority-for-the-NA-activities would need to be eliminated from the workplan. SUNY will be pleased to remain in dialogue with USAID Malawi on the best path forward.

Parallel to the consultations reported on elsewhere in this report, the project office was conducting the following activities in the National Assembly which had explicit approval of management.

2. Support NA in Hiring and training of 4 staff

With the Project's assistance, the NA recently published advertisements to fill a number of positions in the NA structure. Included in this advertisement are three Committee Clerks and one Senior Clerk Assistant. These positions will be funded by the NA. In addition however, the NA will recruit a further four clerks and research assistants who will be supported by the Project through the NA for the duration of the project. Thereafter the NA will take over responsibility for these staff.

The NA has requested the Project Deputy Chief of Party to assist the interview panel charged with the responsibility of interviewing the short-listed candidates. It is planned to conduct the interviews during the first week of August. The involvement of the Project in the recruitment process is most welcome, as it will create the necessary linkage with the NA Human Resources Department in the development of Training Materials and Modules for the new staff. Additionally, the Project will provide some measure of quality control.

3. Baseline Survey

The Project conducted a survey to establish a baseline for the nine performance and monitoring indicators for the project. The *Budgetary Effectiveness Index* and *National Assembly Effectiveness* are the only two indicators whose baseline data is yet to be collected. The ongoing Budget session will provide the data that will feed into the development of the two indicators. The *NA Effectiveness Index* will be arrived at by comparing the values of 2006 - the baseline - against those of 2007.

4. Committee Meeting Room and Parliamentary Resource Center

The Project has rented Committee meeting space in Development House. A number of Parliamentary Committees have already used these facilities including the Public Appointments Committee. Also available opposite the Committee Room is a Resource Center. This has already been furnished and the Project is in the process of procuring a total of 15 computers for installation.

The installation of a high-speed internet line was completed in June. Members will shortly be able to utilise this facility to surf the internet and print materials thereby increasing their effectiveness.

Additionally, the Project has arranged for subscriptions for newspapers, the *Government Gazette* and *Hansard*, and other periodicals for reference by the MPs in the Resource Center.

The Clerk of Parliament visited the Project Offices and the Resources Center on 28th June, 2006.

5. Establish university internship program (committee, clerk assistance, support for women's caucus, etc.)

Management of the Project met with the Dean of the Faculty of Law together with representatives from Casals and Associates who will also have a need under their Project for interns. It was felt appropriate that we work together to ensure uniformity of the compensation package to be offered to the interns. The Dean, subject to agreement of an appropriate allowance to him, will act as our coordinator. He is to revert to us to advise his expectations for discharging this role. He will be responsible for providing a pool of interns from which the NA will select appropriate candidates. He will also help in supervising them to ensure that the relationship is mutually beneficial.

6. Expert Directory and Committee Handbook

Granted the need for additional space, the NA has determined that the reviewing and updating of the Expert Directory and Committee Handbook is no longer overriding priorities. Preliminary work had already been done in this regard.